



June 5, 2025

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Hon. Brian M. Cogan, U.S.D.J.
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Status Update
Haitian Evangelical Clergy Ass'n v. Trump, No. 25-cv-1464

Dear Judge Cogan:

We represent Plaintiffs in the above-captioned case, which, as you know, challenges Secretary of Homeland Security Kristi Noem's "partial vacatur" of Haiti's Temporary Protected Status designation. We write to update the court on what has happened—or, more accurately, what has not happened—since last week's hearing.

Under the "partial vacatur," Haiti's TPS designation "will expire on August 3, 2025." 90 Fed. Reg. at 10511.

By statute, the Secretary must determine whether the conditions for designation continue to be met "[a]t least 60 days before end" of the current designation period and must provide notice of that determination "on a timely basis." 8 U.S.C. § 1254a(b)(3)(A).

Consistent with these statutory requirements, the "partial vacatur" stated that Secretary Noem "intend[ed] to review the Haiti TPS designation by June 4, 2025," which is 60 days before August 3. 90 Fed. Reg. at 10514. In its motion to dismiss, the government made a similar representation. ECF 37 at 8.

But June 4 has passed without notice of any determination by the Secretary under § 1254a(b)(3)(A) having been published in the Federal Register.

Early this morning, after confirming that no notice appears in today's Federal Register, we emailed the government asking that it advise us whether the Secretary has made a determination under § 1254a(b)(3)(A) and, if so, when it will be published. And we asked that the government advise us, if the Secretary has yet to make a determination, whether she intends to do so before August 3. In response, the government told us that "[t]he Secretary has complied with her statutory requirements on TPS for Haiti" and that "[t]he decision she made will be published in the Federal Register on a timely basis." Notably, the government did not say when notice of the Secretary's determination would be published.

Anticipating the Secretary making a determination by June 4, Your Honor said at the recent hearing that the Court would defer ruling on the pending motions "until shortly after June 4th or 5th" to "see what is going to happen." Hrg. Tr. 27 (May 28, 2025). At the same time, the Court rightly recognized that "there is some urgency" if notice of a determination "doesn't happen by then." *Id.*

That is precisely the situation now. Given the Secretary's unexplained delay, the uncertainty caused by the "partial vacatur," and the ongoing irreparable harm caused by that uncertainty (*see* Hrg. Tr. 6–11; ECF 44

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at 2–5; ECF 17-1 at 6–7), Plaintiffs ask that the Court wait no longer and instead rule immediately on the pending motions.

Respectfully submitted,

/s/ Andrew Tauber

Andrew E. Tauber